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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,127	08/22/2001	Daniel Wyatt	4216P2365	7736
23504	7590	06/04/2004	EXAMINER	
WEISS & MOY PC 4204 NORTH BROWN AVENUE SCOTTSDALE, AZ 85251			ARK, DARREN W	
			ART UNIT	PAPER NUMBER

3643

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/934,127

Applicant(s)

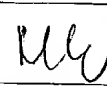
WYATT, DANIEL

Examiner

Darren W. Ark

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18, 19, 21, 22 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18, 19, 21, 22 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "a sleeve comprised of more than twenty plastic-type strands...helically braided together" or "said plastic-type strands extending from said second end of said sleeve and terminating at said first end of said sleeve, said first end of each said plastic-type strand being fused together with a first end of an opposing plastic-type strand to form an opening defined by said first end of said sleeve" (claims 18 and 32) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: the specification does not particularly disclose "a sleeve comprised of more than twenty plastic-type strands...helically braided together" or "said plastic-type strands extending from said second end of said sleeve and terminating at said first end of said sleeve, said first end of each said plastic-type strand being fused together with a first end of an opposing plastic-type strand to form an opening defined by said first end of said sleeve".

Appropriate correction is required.

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***Claim Rejections - 35 USC § 112***

3. Claims 18, 19, 21, 22, and 32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In regard to claims 18 and 32, the specification and figures do not particularly disclose "a sleeve comprised of more than twenty plastic-type strands... helically braided together" or "said plastic-type strands extending from said second end of said sleeve and terminating at said first end of said sleeve, said first end of each said plastic-type strand being fused together with a first end of an opposing plastic-type strand to form an opening defined by said first end of said sleeve". There was no language in the original disclosure filed 8/22/2001 that describes the construction details of the sleeve.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 18, 19, 21, 32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Caplan 2,828,571.

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Caplan discloses a sleeve (10, 11; 10 made of flexible net of plastic, such as nylon); a fishing line (14, 15) with a second end dimensioned to pass through an aperture (open front end of 11) defined by the second end of the sleeve; a fishing hook (19 not being recited such that it protrudes out of the first end).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 18, 19, 21, 22, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caplan 2,828,571.

Caplan discloses a sleeve (10, 11; 10 made of flexible net of plastic, such as nylon); a fishing line (14, 15) with a second end dimensioned to pass through an aperture (open front end of 11) defined by the second end of the sleeve; a fishing hook (19 not being recited such that it protrudes out of the first end); and the first ends of each strand fused to other first ends of strands (all ends of strands are joined at 20) at the first end. Alternatively, Caplan does not disclose the sleeve comprising more than twenty strands. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize more than 20 strands, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in

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the art, and because using a plurality of strands would increase the number of discrete interconnections about the sleeve so that a snagging of a single strand on an underwater obstruction will not cause a substantial part of the sleeve to come apart which is advantageous over a small number of strands. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

In regard to claim 19, Caplan discloses the material being made of a plastic, but does not disclose the sleeve comprising polyethylene terephthalate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sleeve out of polyethylene terephthalate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

8. Claims 18, 19, 21, 22, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose 2,870,563.

Rose discloses a sleeve (6) comprised of a plurality of strands (4) comprising Phosphor bronze wires that form a plurality of apertures (see Figs. 1, 2, and 4), a first end (5), and a second end (7); a fishing line (18) with a second end dimensioned to pass through an aperture (end of 18 attached to 13 is dimensioned to pass through an aperture defined by the second end of the sleeve [loop of 2, 3 at 11 or aperture adjacent to 15]) defined by the second end of the sleeve; a fishing hook (8-10; hook not being recited such that it protrudes out of the first end); and the first ends of each strand fused to other first ends of strands (see ends of strands are interconnected at Fig. 4), but does

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not disclose the strands comprising more than 20 strands which are made of plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize more than 20 strands, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art, and because using a plurality of strands would increase the number of discrete interconnections about the sleeve so that a snagging of a strand on an underwater obstruction will not cause a substantial part of the sleeve to come apart which is advantageous over a small number of strands. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

In regard to claims 18, 19, and 32, Rose discloses the sleeve material being Phosphor bronze wire, but does not disclose the sleeve comprising polyethylene terephthalate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sleeve out of polyethylene terephthalate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because plastic is not prone to corrosion, can be easily made into many different colors and configurations. *In re Leshin*, 125 USPQ 416.

9. Claims 18, 19, 21, 22, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anselmi 2,972,831.

Anselmi discloses a sleeve (3) comprised of a plurality of strands (see Fig. 3) comprising wires that form a plurality of apertures (see Figs. 3 and 4), a first end (lower end in Fig. 1 adjacent 5), and a second end (upper end in Fig. 1 adjacent 8); a fishing

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line (to be coupled to 8) with a second end dimensioned to pass through an aperture (end of line attached to 8 is dimensioned to pass through an aperture defined by the second end of the sleeve [any aperture in sleeve at upper end]) defined by the second end of the sleeve; a fishing hook (5, 6A, 6B); and first ends of each strand are fused to other first ends of strands (see Figs. 3 & 4 which show the ends being interconnected), but does not disclose the strands comprising more than 20 strands which are made of plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize more than 20 strands, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art, and because using a plurality of strands would increase the number of discrete interconnections about the sleeve so that a snagging of a strand on an underwater obstruction will not cause a substantial part of the sleeve to come apart which is advantageous over a small number of strands. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

In regard to claims 18, 19, and 32, Anselmi discloses the sleeve material being wire, but does not disclose the sleeve comprising polyethylene terephthalate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sleeve out of polyethylene terephthalate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because plastic is not prone to corrosion, can be easily made into many different colors and configurations. *In re Leshin*, 125 USPQ 416.



***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Flanagan, Jr. '117 discloses a body (13) made of polyethylene terephthalate or other materials including vinylidene chloride-vinyl chloride co-polymers and other plastics, natural and artificial rubbers, and metals such as aluminum and stainless steel, in thin sheet or foil form.

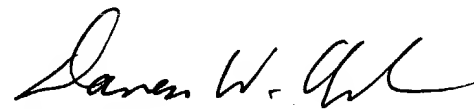
11. Any amendment to the specification and the figures to provide support for the limitations in claims 18 and 32 of "a sleeve comprised of more than twenty plastic-type strands...helically braided together" or "said plastic-type strands extending from said second end of said sleeve and terminating at said first end of said sleeve, said first end of each said plastic-type strand being fused together with a first end of an opposing plastic-type strand to form an opening defined by said first end of said sleeve" may cause a new matter objection to the specification under 35 U.S.C. 132.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark  
Primary Examiner  
Art Unit 3643

DWA